



U.S. Department of Justice

United States Attorney
Southern District of New York

United States District Courthouse
300 Quarropas Street
White Plains, New York 10601

February 5 2016

Hon. Cathy Seibel
United States District Judge
United States Courthouse
300 Quarropas Street
White Plains, NY 10601

Re: *United States v. Selim Zherka*
S4 14 Cr. 545 (CS)

Dear Judge Seibel:

We write to seek an Order permitting Patrick Monaghan, Esq. ("Monaghan"), attorney for Robert S. Ryan ("Ryan"), to withdraw immediately from his attorney's escrow account the \$25,000 sent to him by the City of Yonkers ("Yonkers") in this matter. We explain below.

On January 13, Your Honor endorsed the Government's January 5 letter application seeking, *inter alia*, the forthwith remission by Yonkers of \$25,000 to Ryan or Monaghan. On January 27, John J. Phelan, Esq., the attorney representing Yonkers in this matter – who was copied on our January 5 letter and interposed no objection to it – wrote to the Court, enclosing a copy of a settlement agreement between Yonkers and the defendant, and seeking "an Order amending the turn over [*sic*] order so ordered by your [*sic*] Honor on January 13, 1016...." On January 27, Your Honor endorsed that letter as follows: "Perhaps I am being dense, but I cannot tell what Mr. Phelan is seeking. He may submit a proposed Order and/or a letter with a fuller explanation." For what it may be worth, I had no idea what Mr. Phelan was seeking either. Be that as it may, it is now more than a week after Your Honor's endorsement of Mr. Phelan's January 27 letter, and he still has not submitted a proposed Order and/or a letter with a fuller explanation. More to the point, it is now more than three weeks after Your Honor ordered the "forthwith" turnover of these funds and, while Yonkers overnighted a check for \$25,000 to Monaghan on January 29, 2016, it was not without strings attached, but rather with the explicit understanding that the funds would be held in escrow by Monaghan pending further order of this Court – an order that Mr. Phelan/Yonkers still has not sought.

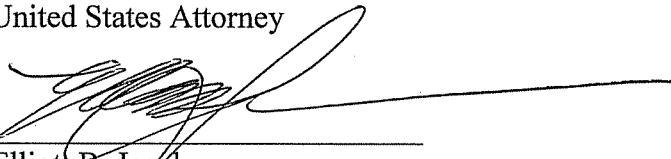
According to Monaghan, Mr. Phelan is insisting that the funds be held in escrow – pending further order of this Court – because Yonkers, per its corporation counsel, is insisting on such an order for its internal accounting purposes, given that the money came from a settlement with the defendant in an unrelated matter. Yonkers has had more than an ample opportunity to seek an order amending Your Honor's January 13 order directing the "forthwith" turnover of the funds in question, assuming, without conceding, that for its purposes such an order was at all necessary.

Yonkers should have no further say over these funds. Monaghan should be able to dispense the funds from his attorney's escrow account to his client today with or without further authorization from Yonkers. We strongly urge the Court to permit him to do so – without fear of reprisals from Yonkers and/or the defendant – by endorsing this letter below.

Respectfully yours,

Preet Bharara
United States Attorney

By:



Elliott B. Jacobson
Assistant United States Attorney

SO ORDERED:

Hon. Cathy Seibel
United States District Judge

cc: John Phelan, Esq. (by email)